

AMENDED IN SENATE APRIL 15, 1999

SENATE BILL

No. 555

Introduced by Senator Karnette

February 19, 1999

An act to amend ~~Section~~ *Sections 451.5 and 457.1* of the Penal Code, relating to arson.

LEGISLATIVE COUNSEL'S DIGEST

SB 555, as amended, Karnette. Arson: registration.

Existing law defines the crime of aggravated arson, and specifies costs to be included in calculating property damage for purposes of those provisions. The provisions relating to calculating property damage cease to have effect on January 1, 1999.

This bill would extend the operation of the above-described provisions to January 1, 2005, as specified. By extending the existence of an existing crime, this bill would create a state-mandated local program.

Existing law requires a convicted arsonist, as specified, to register with certain local officials where he or she resides and makes it a misdemeanor to fail to register.

This bill would, in addition, subject persons convicted of aggravated arson *and possession or use of certain destructive devices containing flammable liquids, as specified*, to the provisions described above. By expanding the scope of an existing crime, this bill would impose a state-mandated local program. *The bill would also recast the provisions of law specifying the conditions requiring registration, and specify*

the length of time persons are subject to the registration requirements.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 451.5 of the Penal Code is*
2 *amended to read:*

3 451.5. (a) Any person who willfully, maliciously,
4 deliberately, with premeditation, and with intent to
5 cause injury to one or more persons or to cause damage
6 to property under circumstances likely to produce injury
7 to one or more persons or to cause damage to one or more
8 structures or inhabited dwellings, sets fire to, burns, or
9 causes to be burned, or aids, counsels, or procures the
10 burning of any residence, structure, forest land, or
11 property is guilty of aggravated arson if one or more of the
12 following aggravating factors exists:

13 (1) The defendant has been previously convicted of
14 arson on one or more occasions within the past 10 years.

15 (2) (A) The fire caused property damage and other
16 losses in excess of five million dollars (\$5,000,000).

17 (B) In calculating the total amount of property
18 damage and other losses under subparagraph (A), the
19 court shall consider the cost of fire suppression. It is the
20 intent of the Legislature that this paragraph be reviewed
21 within five years to consider the effects of inflation on the
22 dollar amount stated herein. For that reason, this
23 paragraph shall remain in effect only until January 1, ~~1999~~
24 2005, and as of that date is repealed, unless a later enacted
25 statute, which is enacted before January 1, ~~1999~~ 2005,
26 deletes or extends that date.

(3) The fire caused damage to, or the destruction of, five or more inhabited structures.

(b) Any person who is convicted under subdivision (a) shall be punished by imprisonment in the state prison for 10 years to life.

(c) Any person who is sentenced under subdivision (b) shall not be eligible for release on parole until 10 calendar years have elapsed.

SEC. 2. Section 457.1 of the Penal Code is amended to read:

457.1. (a) As used in this section, “arson” means a violation of Section 451, 451.5, or 453.

~~(b) Upon a conviction of the offense of arson or attempted arson, or upon the discharge or parole of any person from the Department of the Youth Authority for the commission of the offense of arson or attempted arson, the court shall impose, in addition to any other penalty prescribed by law, a requirement that the person shall register with the chief of police of the city in which he or she resides, or with the sheriff of the county if he or she resides in an unincorporated area, and with the chief of police of the campus of the University of California or the California State University where the person is domiciled, if he or she is domiciled on campus or in any campus facility, within 30 days of coming into any county or city in which he or she expects to reside or is temporarily domiciled for at least 30 days. 453, or 12303.3, where the offense is predicated upon a destructive device as defined in paragraph (5) of subdivision (a) of Section 12301, and attempted arson, that includes, but is not limited to, a violation of Section 455.~~

(b) (1) Every person described in paragraph (2), (3), and (4), for the periods specified therein, shall, while residing in, or if the person has no residence, while located in California, be required to, within 14 days of coming into, or changing the person’s residence or location within any city, county, city and county, or campus wherein the person temporarily resides, or if the person has no residence, is located:

1 (A) Register with the chief of police of the city where
2 the person is residing, or if the person has no residence,
3 where the person is located.

4 (B) Register with the sheriff of the county where the
5 person is residing, or if the person has no residence, where
6 the person is located in an unincorporated area or city
7 that has no police department.

8 (C) In addition to (A) or (B) above, register with the
9 chief of police of a campus of the University of California,
10 the California State University, or community college
11 where the person is residing, or if the person has no
12 residence, where the person is located upon the campus
13 or any of its facilities.

14 (2) Any person who, since September 7, 1994, has been
15 or is hereafter convicted in any court in this state of arson
16 or attempted arson shall be required to register, in
17 accordance with the provisions of this section, for the rest
18 of his or her life.

19 (3) Any person who, having committed the offense of
20 arson or attempted arson, and after having been
21 adjudicated a ward of the juvenile court, is discharged or
22 paroled from the Department of the Youth Authority on
23 or after January 1, 1993, shall be required to register, in
24 accordance with the provisions of this section, until that
25 person attains the age of 25 years.

26 (4) Any person convicted of the offense of arson or
27 attempted arson between January 1, 1985, and September
28 4, 1994, in any court of this state, shall be required to
29 register, in accordance with the provisions of this section,
30 for a period of five years commencing, in the case where
31 the person was confined for the offense, from the date of
32 their release from confinement, or in the case where the
33 person was not confined for the offense, from the date of
34 sentencing or discharge, if that person was ordered by the
35 court at the time that person was sentenced to register as
36 an arson offender. The law enforcement agencies shall
37 make registration information available to the chief fire
38 official of a legally organized fire department or fire
39 protection district having local jurisdiction where the
40 person resides.

1 (c) Any person required to register pursuant to this
2 section who is discharged or paroled from a jail, prison,
3 school, road camp, or other penal institution, or from the
4 Department of the Youth Authority where he or she was
5 confined because of the commission or attempted
6 commission of arson, shall, prior to the discharge, parole,
7 or release, be informed of his or her duty to register under
8 this section by the official in charge of the place of
9 confinement. The official shall require the person to read
10 and sign the form as may be required by the Department
11 of Justice, stating that the duty of the person to register
12 under this section has been explained to him or her. The
13 official in charge of the place of confinement shall obtain
14 the address where the person expects to reside upon his
15 or her discharge, parole, or release and shall report the
16 address to the Department of Justice. The official in
17 charge of the place of confinement shall give one copy of
18 the form to the person, and shall, not later than 45 days
19 prior to the scheduled release of the person, send one
20 copy to the appropriate law enforcement agency having
21 local jurisdiction where the person expects to reside upon
22 his or her discharge, parole, or release; one copy to the
23 prosecuting agency that prosecuted the person; one copy
24 to the chief fire official of a legally organized fire
25 department or fire protection district having local
26 jurisdiction where the person expects to reside upon his
27 or her discharge, parole, or release; and one copy to the
28 Department of Justice. The official in charge of the place
29 of confinement shall retain one copy. All forms shall be
30 transmitted in time so as to be received by the local law
31 enforcement agency and prosecuting agency 30 days
32 prior to the discharge, parole, or release of the person.

33 ~~(d) The duty to register under this section for offenses~~
34 ~~adjudicated by a juvenile court shall cease 10 years after~~
35 ~~the adjudication of the offense for which the registration~~
36 ~~was required.~~

37 (e)

38 (d) All records relating specifically to the registration
39 in the custody of the Department of Justice, law
40 enforcement agencies, and other agencies or public

1 officials shall be destroyed when the person required to
2 register under this subdivision for offenses adjudicated by
3 a juvenile court attains the age of 25 years or has his or her
4 records sealed under the procedures set forth in Section
5 781 of the Welfare and Institutions Code, whichever
6 event occurs first. This subdivision shall not be construed
7 to require the destruction of other criminal offender or
8 juvenile records relating to the case that are maintained
9 by the Department of Justice, law enforcement agencies,
10 the juvenile court, or other agencies and public officials
11 unless ordered by the court under Section 781 of the
12 Welfare and Institutions Code.

13 ~~(f)~~

14 (e) Any person who is required to register pursuant to
15 this section who is released on probation or discharged
16 upon payment of a fine shall, prior to the release or
17 discharge, be informed of his or her duty to register under
18 this section by the ~~court~~ *probation department of the*
19 *county* in which he or she has been convicted, and the
20 ~~court~~ *probation officer* shall require the person to read
21 and sign the form as may be required by the Department
22 of Justice, stating that the duty of the person to register
23 under this section has been explained to him or her. The
24 ~~court~~ *probation officer* shall obtain the address where the
25 person expects to reside upon his or her release or
26 discharge and shall report within three days the address
27 to the Department of Justice. The ~~court~~ *probation officer*
28 shall give one copy of the form to the person, and shall
29 send two copies to the Department of Justice, which, in
30 turn, shall forward one copy to the appropriate law
31 enforcement agency having local jurisdiction where the
32 person expects to reside upon his or her discharge, parole,
33 or release.

34 ~~(g)~~

35 (f) The registration shall consist of (1) a statement in
36 writing signed by the person, giving the information as
37 may be required by the Department of Justice, and (2)
38 the fingerprints and photograph of the person. Within
39 three days thereafter, the registering law enforcement
40 agency shall *electronically* forward the statement,

1 fingerprints, and photograph to the Department of
2 Justice.

3 ~~(h)~~

4 (g) If any person required to register by this section
5 changes his or her residence address, he or she shall
6 inform, in writing within 10 days, the law enforcement
7 agency with whom he or she last registered of his or her
8 new address. The law enforcement agency shall, within
9 three days after receipt of the information, *electronically*
10 forward it to the Department of Justice. The Department
11 of Justice shall forward appropriate registration data to
12 the law enforcement agency having local jurisdiction of
13 the new place of residence.

14 ~~(i)~~

15 (h) Any person required to register under this section
16 who violates any of the provisions thereof is guilty of a
17 misdemeanor. Any person who has been convicted of
18 arson or attempted arson and who is required to register
19 under this section who willfully violates any of the
20 provisions thereof is guilty of a misdemeanor and shall be
21 sentenced to serve a term of not less than 90 days nor
22 more than one year in a county jail. In no event does the
23 court have the power to absolve a person who willfully
24 violates this section from the obligation of spending at
25 least 90 days of confinement in a county jail and of
26 completing probation of at least one year.

27 ~~(j)~~

28 (i) Whenever any person is released on parole or
29 probation and is required to register under this section
30 but fails to do so within the time prescribed, the Board of
31 Prison Terms, the Department of the Youth Authority, or
32 the court, as the case may be, shall order the parole or
33 probation of that person revoked.

34 ~~(k)~~

35 (j) The statements, photographs, and fingerprints
36 required by this section shall not be open to inspection by
37 the public or by any person other than a regularly
38 employed peace officer or other law enforcement officer.

39 ~~(l)~~

1 (k) In any case in which a person who would be
2 required to register pursuant to this section is to be
3 temporarily sent outside the institution where he or she
4 is confined on any assignment within a city or county,
5 including, but not limited to, firefighting or disaster
6 control, the local law enforcement agency having
7 jurisdiction over the place or places where that
8 assignment shall occur shall be notified within a
9 reasonable time prior to removal from the institution.
10 This subdivision shall not apply to any person temporarily
11 released under guard from the institution where he or she
12 is confined.

13 ~~(m)~~

14 (l) Nothing in this section shall be construed to conflict
15 with Section 1203.4 concerning termination of probation
16 and release from penalties and disabilities of probation.

17 A person required to register under this section may
18 initiate a proceeding under Chapter 3.5 (commencing
19 with Section 4852.01) of Title 6 of Part 3 and, upon
20 obtaining a certificate of rehabilitation, shall be relieved
21 of any further duty to register under this section. This
22 certificate shall not relieve the petitioner of the duty to
23 register under this section for any offense subject to this
24 section of which he or she is convicted in the future.

25 *Any person who is required to register under this*
26 *section due to a misdemeanor conviction shall be relieved*
27 *of the requirement to register if that person is relieved*
28 *from the penalties and disabilities of probation pursuant*
29 *to Section 1203.4.*

30 SEC. 2. No reimbursement is required by this act
31 pursuant to Section 6 of Article XIII B of the California
32 Constitution because the only costs that may be incurred
33 by a local agency or school district will be incurred
34 because this act creates a new crime or infraction,
35 eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section
37 17556 of the Government Code, or changes the definition

1 of a crime within the meaning of Section 6 of Article
2 XIII B of the California Constitution.

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